



BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

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<https://www.brevardfl.gov/PlanningDev>

### STAFF COMMENTS

**23Z00019**

#### Redfish Water Disposal, LLC

#### PIP (Planned Industrial Park) with an existing Binding Development Plan (BDP) to Removal of Existing BDP in a PIP (Planned Industrial Park)

Tax Account Numbers: 2311419

Parcel I.D.: 23-35-25-00-1

Location: Southeast corner of Broadway Blvd. and Industrial Dr. (District 1)

Acreage: 2.79 Acres

Planning & Zoning Board: 06/12/2023

Board of County Commissioners: 07/13/2023

#### Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
<b>Zoning</b>	PIP with BDP	PIP with Removal of BDP
<b>Potential*</b>	43,752 sq. ft.	43,752 sq. ft.
<b>Can be Considered under the Future Land Use Map</b>	YES PI	YES PI

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

#### Background and Purpose of Request

The applicant is requesting to remove an existing Binding Development Plan (BDP) in a PIP (Planned Industrial Park) on a 2.79-acre parcel for future development of the site without the conditions required in the existing BDP. The parcel has an existing Binding Development Plan (BDP) recorded in Official Records Book 8211, Page 1151-1155 on July 13, 2018 under zoning action **17PZ00150**. The subject property is currently undeveloped.

The site was originally zoned GU and was rezoned from GU to PIP with a Binding Development Plan (BDP) in December 2005 under Zoning action # **Z-11204**. The original BDP (Official Records Book 5615, Pages 3212-3216, dated March 10, 2006) had the following restrictions:

- No septic liquid storage tanks are installed or maintained on the property;

- No trucks will be parked or stored on the property, and that structures built on the property will be for office use only; and
- Developer/owner will insure that no sludge, used drainfield material, or any other unauthorized material is dumped on this site.

In February 2018, the Board approved amending the original BDP under zoning action **17PZ00150**. The amended Binding Development Plan, recorded in Official Records Book 8211, page 1151 on July 13, 2018, is still in effect today and stipulates:

- The Developer/Owner shall develop the property in accordance with Brevard County codes and guidelines for commercial property which abuts residential property to include a 25-foot setback/buffer along with a fence/wall in accordance with county approval along the east residential property border;
- A concept illustration (Exhibit "B") is being provided to depict the planned structures consisting of mini self-storage buildings and a main building to use as offices, warehouses, and workshops;
- The self-storage buildings will be along the east side of the property and the main building on the west side to limit noise effect on the residential properties. Self-storage access hours of operation are envisioned as 8 AM to 8 PM and there will be provisions to prohibit operating repair shops out of the self-storage spaces;
- Lighting will be in accordance with county requirements and will be oriented to minimize effect on residential properties;
- Developer/owner will be limited to the following land uses: Professional offices; mini-warehouses and self-storage mini-warehouses; workshops/hobby shops for wood working, welding, ceramics and pottery, upholstery, leather work, art work, antiques, photography; repair and storage of golf carts, bicycles, auto, lawn and farm equipment; plant nursery; sales of goods such as ceramics, crafts, furniture, golf carts, lawn and farm equipment, plants, building material;
- Additional activities permitted inside the main building to include electrical appliance and lighting fixture repair, sharpening and grinding, welding, fabrication, sales, storage, ceramic productions and firing, office activities, repair and fabrication;
- Activities outside shall be limited to include, parking, automobile washing, picnic and playground, and plant nursery;
- Developer/Owner shall insure that no trucks more than six wheels will be parked or stored on the property
- Developer/Owner shall insure that no sludge, used drain field material, or any other unauthorized material is dumped on this site;
- Gopher tortoises on the property shall be protected, and an area reserved for them;
- Development shall minimize the removal of trees to only what is necessary and replant in accordance with county approval.

The existing PIP zoning classification has the following setback requirements:

- a. Front yard. All buildings shall be set back from all street right-of-way lines at least 50 feet.
- b. Side yard. No building or wall shall be located closer than 50 feet to a side yard lot line.
- c. Rear yard. No structures or truck parking and loading shall be located closer than 25 feet to the rear lot line.

**Please note:** The existing parcel geometry may limit potential development of the subject property. A concept plan was not included with the zoning application provided. This is not a requirement for rezoning and one has not been reviewed for compliance with the land development codes and other County departments. A concept plan is non-binding.

## **Land Use**

The subject property is currently designated as Industrial (IND) FLU. The existing PIP zoning can be considered consistent with the existing IND FLU designation.

## **Applicable Land Use Policies**

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 of the Future Land Use Element.

## **Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.**

Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use;

**The applicant proposes to remove the existing Binding Development Plan which was established to ensure uses allowed on a 2.79-acre parcel with PIP zoning classification would not diminish the enjoyment of the quality of life in existing neighborhoods. Any development would need to meet performance standards set forth in code sections 62-2251 through 62-2272 and will be reviewed at the site plan review stage.**

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

**Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed request.**

- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:
  - 1. historical land use patterns;

**The existing pattern of surrounding development in the vicinity of the FEC railway is commercial and outdoor storage that includes a junk yard and building supply with light industrial zoning (IU). Further away, land use transitions to residential north and east of the subject parcel.**

**There are four (4) FLU designations within 500 feet of the subject site: Industrial (IND), Residential 4 (RES 4), Residential 8 Directive (RES 8 DIR) and Residential 15 (RES 15).**

**The most recent FLU amendment (2017-1.3) in this area was adopted May 4, 2017 to change the FLU designation from IND, CC, NC and RES 8 DIR to all RES 4 on 129± acres located 25 feet to the west and 40 feet to the south of the subject property. An associated rezoning to PUD (Planned Unit Development) on the 129± acres for 417 single-family homes (Watermark PUD) was approved by the Board on May 24, 2018 under 18PZ00014.**

2. actual development over the immediately preceding three years; and

**There has not been any development within one-half mile of the subject property in the preceding three (3) years.**

3. development approved within the past three years but not yet constructed.

**There have been two zoning actions approved within one-half mile in the past three years:**

**20Z00032, approved by the Board on December 2, 2020, was a request to amendment to an existing PUD for 417 single-family homes (Watermark PUD) on 129± acres located approximately 40 feet south of the subject property on Industrial Drive.**

**20Z00043, approved by the Board on April 14, 2021, was a request to change the zoning from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing and Wholesale Commercial) on 1.7 acres located approximately 2,425 feet south east of the subject property on west side of Highway US-1.**

- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

**No material violation of relevant policies has been identified.**

#### **Analysis of Administrative Policy #4 - Character of a neighborhood or area.**

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

**The applicant is requesting to remove the existing BDP for future development of a 2.79-acre parcel. The parcel is abutting thirteen residential parcels to the east with TR-1 single-family mobile home zoning classifications, and two residential parcels to the north (across Broadway Boulevard) with TR-2 single-family mobile home zoning classifications.**

**A proposed use has not been provided by the applicant, therefore, potential impacts to the existing neighborhood within the area could include hours of operation, noise buffering, odor, particulates, traffic, parking, commercial activity or industrial activity.**

**The applicant inquired about developing the property as a “Port-A-Potty” treatment facility. However, that use is not allowed within PIP zoning.**

**The removal of the use restrictions recorded in the existing BDP would allow many additional uses found within the BU-1, BU-2 or PIP zoning classification to be performed on this site such as crematorium, dry cleaning plant, outdoor storage yard, engine sales and service, recovered materials processing facility, seafood processing plant, composting facility, and potential other uses similar in nature.**

**B. In determining whether an established residential neighborhood exists, the following factors must be present:**

- 1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.**

**The developed character of the area is industrial and commercial in the vicinity of the FEC railway, establishing an industrial corridor along Industrial Drive which transitions to residential land uses north and east of the subject parcel. The PIP zoning helps to provide a transition between residential and industrial.**

**Further west of the subject site, across the FEC railway, is a 0.36-acre parcel with AGR (Agricultural) zoning owned by Brightline Trains Florida LLC and a 19.94-acre parcel with AGR (Agricultural) zoning utilized as a borrow pit.**

- 2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.**

**The parcel does not have any established neighborhood commercial uses or non-conforming commercial uses.**

- 3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.**

**There is an established industrial corridor along the west side of Industrial Drive and residential zoning north and east of the subject parcel. To the north is TR-2, a single-family mobile home zoning which allows one-half (1/2) acre lots, and to the**

east is TR-1, a single-family mobile home zoning which allows 7,500 sq. ft. lots. Further east is the Hardeeville Subdivision, a single-family residential subdivision, platted December 1964.

### Surrounding Area

	Existing Use	Zoning	Future Land Use
<b>North</b>	Single-family (across ROW)	TR-2	RES 15
<b>South</b>	Building supply, Junk Yard (across ROW)	IU	IND
<b>East</b>	Single-family	TR-1	RES 8 DIR
<b>West</b>	Building supply, Junk Yard (across ROW)	IU	IND

To the north, across Broadway Blvd., is a 0.58-acre parcel and a 0.49-acre parcel with TR-2 (Single-Family Mobile Home) zoning and developed with single-family mobile home residence.

To the south is a 1.67-acre parcel with IU (Light Industrial) zoning developed with commercial building and used as a junk yard.

To the east are thirteen 0.16-acre parcels with TR-1 (Single-Family Mobile Home) zoning developed with single-family mobile home residence. Further east is the Hardeeville Subdivision, a single-family residential subdivision, platted December 1964.

To the west is 1.67-acre parcel with IU zoning developed with commercial building and used as a junk yard. Further west, across the FEC railway, is a 0.36-acre parcel with AGR (Agricultural) owned by Brightline Trains Florida LLC and a 19.94-acre parcel with AGR (Agricultural) utilized as a borrow pit.

The current PIP classification is the second lightest industrial classification, allowing light manufacturing within enclosed buildings with strict buffering, storage and other requirements. The PIP Zoning classification is intended for locations which are served by major roads but are not feasible for light or heavy industrial developments because of proximity to residential uses. The regulations for this district are intended to encourage development compatible with surrounding or abutting residential districts, with suitable open spaces, landscaping, and parking areas which in this case, the past Board of County Commissioners have found necessitates the BDP stipulations. Off-site impacts such as noise, light, traffic and other potential nuisance factors should be considered. Consequently, manufacturing activities that can be carried on in a relatively unobtrusive manner, and certain facilities that are necessary to serve the employees of the district, are permitted.

PIP also permits all uses permitted in the BU-1 and BU-2 classification. BU-2 zoning is the County's most intense commercial zoning classification due to the intensive nature of commercial activities permitted. Off-site impacts such as noise, light, traffic and other potential nuisance factors associated with BU-2 activities should be considered. The BU-2 zoning classification permits retail, wholesale

and warehousing commercial land uses on minimum 7,500 square foot lots and allows outside storage of retail items including, but not limited to, motor vehicles, utility sheds, nursery items such as plants and trees, boats and mobile homes.

IU zoning classification permits light industrial land uses within enclosed structures. The minimum lot size is 20,000 square feet, with a minimum width of 100 feet and a minimum depth of 200 feet.

TR-1 is a single family residential mobile home zoning classification which permits mobile homes or residences of standard construction on lots of 7,500 square feet (minimum) with lot width of 65 feet and lot depth of 100 feet.

TR-2 is a single family residential mobile home zoning classification which permits mobile homes or residences of standard construction on one-half acre lots.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Highway US-1, from Camp Road to Fay Blvd., which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 66.36% of capacity daily. The maximum proposed development potential from the proposed rezoning increases the percentage of MAV utilization by 5.37%. The corridor is anticipated to operate at 71.73% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

No school concurrency information has been provided as this site is a proposed industrial development.

The parcel is serviced by the City of Cocoa utilities for public water. The property is not serviced by Brevard County sewer. The closest Brevard County sewer line to the parcel is approximately 0.7 miles away to the northeast along the south side of the Winn-Dixie shopping plaza.

### **Environmental Constraints**

- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped aquifer recharge soils (Paola fine sand, 0 to 8 percent slopes) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Types 2 and 3 Aquifer Recharge soils that have impervious area restrictions. Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

### **For Board Consideration**

The Board may wish to consider if the request to remove the existing BDP is consistent and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT**  
**Zoning Review & Summary**  
**Item #22Z00072**

**Applicant:** Morris Smith for Redfish Water Disposal

**Zoning Request:** Removal of BDP

**Note:** Applicant wants to construct Package Sewer Treatment Facility

**P&Z Hearing Date:** 03/13/23; **BCC Hearing Date:** 04/06/2023

**Tax ID No:** 2311419

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

**Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped aquifer recharge soils (Paola fine sand, 0 to 8 percent slopes) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Types 2 and 3 Aquifer Recharge soils that have impervious area restrictions.

**Land Use Comments:**

**Aquifer Recharge Soils**

The subject parcel contains mapped aquifer recharge soils (Paola fine sand, 0 to 8 percent slopes) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Types 2 and 3 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

**Protected and Specimen Trees**

Protected ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall



include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

**Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. There are large areas of mapped Florida Scrub Jay occupancy to the north and west of the property; and there is potential for existence of Gopher Tortoises on site. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.